Calendar No. 2418

84TH CONGRESS, 2d Session | SENATE | REPORT No. 2395

OPERATION IN COASTWISE TRADE DENIED TO VESSELS REBUILT OUTSIDE THE UNITED STATES

JULY 2, 1956.—Ordered to be printed

Mr. BUTLER, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT

[To accompany H. R. 6025]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H. R. 6025) to amend the shipping laws, to prohibit the operation in the coastwise trade of vessels rebuilt outside the United States, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

H. R. 6025, introduced at the request of the shipbuilding and repair interests of the country, was designed to assist the shipyards of the United States by making applicable to vessels rebuilt in foreign yards the historic policy of exclusion from the coastwise trade which has always applied, with certain exceptions, to vessels constructed outside the United States.

As amended in the House of Representatives, the bill incorporates amendments suggested by the Departments of Commerce and Treasury to limit its coverage to vessels of more than 500 gross tons, and to require that a report of any such rebuilding be made upon the first subsequent arrival of the vessel at a port within the customs territory of the United States under penalty of the forfeiture of the vessel, and fining of both the owner and master thereof. Both Departments advised the subcommittee that the amendments, as adopted, were acceptable.

As originally introduced, the bill defined the term "rebuilt" in language which the Treasury Department report stated "would apparently be broad enough to include a minor alteration affecting tonnage." As amended, the bill does not define the term "rebuilt," leaving the interpretation to the courts. As the Treasury Department report

memorandum (appended) notes, the Supreme Court has adopted a definition of the term (which would be applicable), to the effect that—

> a vessel is considered rebuilt if any considerable part of the hull of the vessel in its intact condition, without being broken up, is built upon.

The Defense Department report supported the bill, and the Comptroller General, while withholding comment as to enactment, declared that the bill—

> would appear to be consonant with the spirit and purpose of the Merchant Marine Act, 1920 * * * which was designed to foster not only a strong merchant marine, but also the shipbuilding industry of the United States.

The State Department opposed enactment as inconsistent with foreign policy.

At the hearing opposition to the bill, as unnecessary and possible of preventing repairs of vessels for participation in the coastwise trade, was expressed by a witness representing several steamship associations. The witness did agree, however, that the bill was in accord with long-established United States policy toward the coastwise trade.

Testimony in support of enactment was presented on behalf of the shipbuilding industry, the New York and New Jersey Dry Docks Association, and several segments of labor.

The reports of the Government departments are attached.

DEPARTMENT OF THE NAVY,
OFFICE OF THE JUDGE ADVOCATE GENERAL,
Washington, D. C., April 2, 1956.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Interstate and Foreign Commerce,
United States Senate, Washington, D. C.

MY DEAR MR. CHAIRMAN: Your request for comments on S. 1864, a bill to amend the shipping laws, to prohibit the operation in the coastwise trade of vessels rebuilt outside the United States, and for other purposes, has been assigned to this Department by the Secretary of Defense for the preparation of a report thereon expressing the views of the Department of Defense.

S. 1864 would prevent the use in coastwise trade of vessels rebuilt outside the United States or its possessions. This would extend the present prohibition against foreign-built vessels being used in such trade.

Limiting rebuilding work on vessels used in the coastwise trade to American shipyards would aid this seriously distressed industry, and would assist the Department of Defense in its attempts to maintain the mobilization capacity of this country's shipyards.

Accordingly, the Department of the Navy, on behalf of the Department, of Defense, favors enactment of S. 1864.

This report has been coordinated within the Department of Defense in accordance with procedures prescribed by the Secretary of Defense.

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The Department of the Navy has been advised by the Bureau of the Budget that there is no objection to the submission of this report to the Congress.

For the Secretary of the Navy.

Sincerely yours,

W. R. SHEELEY,
Rear Admiral, USN,
Acting Judge Advocate General of the Navy.

TREASURY DEPARTMENT,
Washington, D. C., February 10, 1956.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Interstate and Foreign Commerce,
Senate Office Building, Washington, D. C.

MY DEAR MR. CHAIRMAN: Reference is made to your communication of May 3, 1955, requesting the Department's comments concerning S. 1864, a bill to amend the shipping laws, to prohibit the operation in the coastwise trade of vessels rebuilt outside the United States, and for other purposes.

The bill is designed to extend the historic policy of this Government looking to the protection of American shipbuilding and repair yards from foreign competition. Whether its enactment will affect adversely or further the development and maintenance of the American merchant marine, to which the United States is committed by section 101 of the Merchant Marine Act, 1936 (U. S. C., 1952 edition, title 46, sec. 1101), is a question which involves factual and policy considerations beyond the scope of the Treasury Department's jurisdiction. Since this Department would be charged with the administration of the bill, if enacted in its present form, there is enclosed a memorandum pointing out results that might be deemed undesirable and suggesting amendments.

The Department has been advised by the Bureau of the Budget that there is no objection to the submission of this report to your committee.

Very truly yours,

DAVID W. KENDALL,
Acting Secretary of the Treasury.

MEMORANDUM ACCOMPANYING A REPORT ON S. 1864, A BILL TO AMEND THE SHIPPING LAWS, TO PROHIBIT THE OPERATION IN THE COASTWISE TRADE OF VESSELS REBUILT OUTSIDE THE UNITED STATES, AND FOR OTHER PURPOSES

The bill is apparently designed to encourage rebuilding of vessels of the United States in American shipyards by depriving any such vessel when rebuilt in a foreign country of the right to continue to engage in the coastwise trade. The bill would accomplish this by further amending the Merchant Marine Act, 1920, and the Shipping Act, 1916.

The purpose appears to be entirely consistent with policy pronouncements in other legislation which, as a general proposition, reserves the privileges of the coastwise trade to vessels built in the United States.

However, the Secretary of Commerce is primarily charged with consideration of policy matters affecting the development and maintenance of the merchant marine and will no doubt comment on the advisability of the proposal from that standpoint. Nevertheless, since this Department is charged with administration of the laws governing the coastwise trade, the following comments are submitted for the consideration of the committee.

One of the exceptions to the above-mentioned reservation of the coastwise trade to American vessels is found in section 9 of the Shipping Act, 1916, as amended (U. S. C., 1952 edition, title 46, sec. 808). That section, among other things, permits foreign-built vessels purchased from the Maritime Administration by citizens to engage in the coastwise trade while so owned. Section 2 of the bill would exclude American-built vessels rebuilt abroad from such trade, even when purchased from the Administration under the same circumstances, and thus would apppear to accord an unwarranted preference to foreign-built vessels and discriminate against vessels built in the United States. Further, the proposal would appear inequitably to exclude foreign-built vessels rebuilt abroad before acquisition and sale by Maritime from the coastwise trade, while still permitting foreign-built vessels which have not been so rebuilt to engage in that trade.

Section 3 of the bill includes a definition of the term "rebuilt." The generally accepted definition of that term as applied to vessels is that found in the case of *United States* v. *the Grace Meede* (D. C., E. D. Va. 1876) (25 Fed. Cas. 1387, Fed. Cas. No. 15,243). That definition, which has been adopted by the Supreme Court and which is incorporated in the regulations of the Bureau of Customs of this Department, is in brief that a vessel is considered rebuilt if any considerable part of the hull of the vessel in its intact condition, without being broken up, is built upon (*New Bedford Dry Dock Co.* v. *Purdy* (*The Jack-O'Lantern*) (1922) 258 U. S. 96; footnote 17, sec. 3.28, Customs Regulations (19 CFR 3.28, footnote 17)).

The definition contained in section 3 of the bill, which appears to have been taken from section 4170 of the Revised Statutes, as amended (U. S. C., 1952 edition, title 46, sec. 39), relating to the alteration of vessels, is much broader. It would apparently be broad enough to include a minor alteration affecting tonnage. For instance, an alteration in burden might occur if a permanent enclosure such as a deck locker for steamer chairs or life preservers were to be added during the course of repairs necessitated by damage under stress of weather. For such a relative trifle, the vessel involved might be deprived forever of the valuable right of engaging in the coastwise trade.

It is accordingly suggested that the proposed definition is probably broader than is desirable to accomplish the purposes of the bill and that the definition should be restated in more express terms or should be omitted, in which case the definition in the case of the *Grace Meade* would apparently be applicable.

Section 4 provides that the act shall be effective only as to vessels rebuilt after the date of enactment. It would apparently be effective as to vessels in the course of rebuilding on the date of enactment. In order to eliminate any retroactive applicability, it is recommended that the effectiveness of the act be limited to those vessels which are rebuilt under a contract, agreement, or understanding entered into after the date of enactment.

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Since the act would require an affirmative action on the part of this Department to insure that vessels which are not entitled to engage in the coastwide trade will be excluded from the privilege of documentation therefor, and since the act would not be self-enforcing, it is suggested that a new section be added to provide a penalty for a failure to report a rebuilding of a vessel in a foreign country. It is suggested that the following language might be appropriate:

"SEC. —. If any vessel documented under the laws of the United States or last documented under such laws, is rebuilt outside the United States, its Territories (not including Trust Territories), or its possessions, a report of the circumstances of such rebuilding shall be made to the Secretary of the Treasury upon the first arrival of the vessel thereafter at a port within the customs territory of the United States in accordance with such regulations as the Secretary may prescribe. If the required report is not made, the vessel, together with its tackle, apparel, equipment, and furniture, shall be forfeited, and the master and owner shall each be liable to a penalty of $200. Any penalty or forfeiture incurred under this Act may be remitted or mitigated by the Secretary under the provisions of section 5294 of the Revised Statutes of the United States, as amended (U. S. C., 1952 edition, title 46, sec. 7)."

The words "or the District of Columbia", although used in sections 1 and 2 of the bill, have been omitted from the above-suggested language respecting the place of rebuild because of the fact that the District is not excepted from the United States under any definition contained in the Merchant Marine Act, 1920, as amended. For the same reason, your committee may wish to insert "or" before "its" in line 8, page 1 of the bill and delete ", or the District of Columbia,". A similar change may be made in line 6, page 2.

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, May 18, 1955.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Interstate and Foreign Commerce,
United States Senate.

DEAR MR. CHAIRMAN: Reference is made to your letter of May 3, 1955, enclosing copies of S. 1864 and 1865, 84th Congress, and inviting any comments we may care to offer concerning the bills. S. 1865 will be the subject of a separate report.

S. 1864 would further amend section 27 of the Merchant Marine Act, 1920, as amended, to prohibit the operation in the coastwise trade of any vessel which was rebuilt outside the United States, its Territories, its possessions or the District of Columbia.

The proposed legislation would appear to be consonant with the spirit and purpose of the Merchant Marine Act, 1920, as amended (46 U. S. C. 861 et seq.), which was designed to foster not only a strong merchant marine but also the shipbuilding industry of the United States. However, we have no special information on the subject, and since the question as to whether there should be prohibited the operation of American vessels in the coastwise trade which were rebuilt abroad is one of policy for the Congress to determine, we have no recommendation to make with respect to S. 1864.

Pursuant to your request, this letter is furnished in triplicate.

Sincerely yours,

JOSEPH CAMPBELL,
Comptroller General of the United States.

THE SECRETARY OF COMMERCE,
Washington, March 22, 1956.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Interstate and Foreign Commerce,
United States Senate, Washington, D. C.

DEAR MR. CHAIRMAN: This letter is in reply to your request of May 3, 1955, for the views of this Department with respect to S. 1864, a bill to amend the shipping laws, to prohibit the operation in the coastwise trade of vessels rebuilt outside the United States, and for other purposes.

Subject to certain exceptions, vessels built outside the United States are excluded from operation in the coastwise trade of the United States under the laws establishing the policy of cabotage. The bill would amend section 27 of the Merchant Marine Act, 1920, as amended (46 U. S. C. 833), and section 9 of the Shipping Act, 1916 (46 U. S. C. 808). The purpose of the amendment of such section 27 is to deny, on penalty of forfeiture, the privilege of transporting merchandise by water between points in the United States (including districts, Territories (except trust territories), and possessions thereof embraced within the coastwise laws) on vessels rebuilt in foreign yards. The purpose of the amendment of such section 9 is to exclude from the coastwise trade and to deny to such vessels rebuilt outside the United States (its Territories (except trust territories), or possessions, or the District of Columbia) the privilege of engaging in the coastwise trade under such section 9. The word "rebuilt" as used in the amendments is defined in the bill as follows: "altered in form of burden, by being lengthened or built upon, or from one denomination to another, by the mode or method of rigging or fitting."

The bill further provides that it shall be effective only as to vessels rebuilt after date of enactment of the measure.

Under existing law, United States vessels are subject to an ad valorem duty of 50 percent on repairs made or equipment obtained abroad, except where required for the safety and seaworthiness of the vessels en route. These duties are payable whether the vessel is engaged in domestic or foreign commerce or both. A United States vessel built in a foreign yard may engage in the foreign trade of the United States but may not engage in the coastwise trade of the United States. Under the Merchant Marine Act, 1936, a citizen of the United States may accrue construction-differential subsidy to be used in the construction in United States shipyards of vessels to be used in the foreign trade of the United States. Such subsidy is also available, under exceptional conditions, for aid in the reconstructing or reconditioning of vessels to be used in the foreign trade of the United States. Construction-differential subsidy is not available for the construction or the reconditioning or reconstruction of vessels to be used in the coastwise trade of the United States. Citizenship requirements for eligibility for documentation of vessels under the United States

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flag differ as between vessels to be used in the foreign trade and vessels to be used in the coastwise trade. In the former, a citizen interest of 50 percent as defined in section 2 of the Shipping Act, 1916, is required, while in the case of coastwise trade operation, a citizen ownership of 75 percent is required.

It is not historically clear that the difference in the laws as applicable to vessels constructed abroad contrasted with vessels rebuilt abroad is an oversight or an anomaly. The provision for subsidy for the reconstruction or reconditioning of vessels to be used in the foreign trade of the United States was inserted in the 1936 act with reluctance, and strict limitations were imposed on this type of financial aid which was made available only in exceptional cases and is to be granted only after a thorough study and a formal determination in each case that the proposed reconstruction or reconditioning would be consistent with the purposes and policy of the 1936 act. The purposes and policy of the act were to provide for the construction and maintenance of the best equipped, safest, and most suitable types of vessels constructed in the United States. It was emphasized in consideration of the bill that what was wanted was a merchant marine of new ships, not one of reconditioned ships.

From the policy viewpoint, it seems that closing the "gap" in the law with respect to the foreign reconstruction of a vessel and its eligibility for use in our coastwise trade would be consistent with national maritime policy and principles. Factual circumstances and certain possibilities deserve consideration in measuring the practical effect of the bill, if enacted.

So far as we are presently advised, there are no indications of any large volume of ship reconstruction and reconditioning of United States-flag ships to be done in foreign yards in the near future. According to the records available, there is only one recent case, involving three ships, in which major conversions of United States-flag ships were performed in a foreign yard. Further, our records show that as of December 31, 1955, only 4 privately owned United States-flag ships of 1,000 gross tons and over were built abroad and none of these exceeds 5,000 gross tons.

If there should develop a substantial amount of rebuilding or remodeling in foreign yards in order to fit the vessels for service in a particular United States coastwise trade, such a development could, of course, strengthen and rehabilitate the coastwise trade at a lower cost than if the ships were rebuilt or remodeled in American yards. Such lower capital cost would put the owners of these vessels in a better competitive position. On the other hand, if a prohibition were placed on the use of United States-flag vessels in the domestic trade because of rebuilding abroad, the net result may be that such ships would not be rebuilt in the United States because of the higher cost of such rebuilding and neither the shipbuilder nor the coastwise trade, nor operators and shippers, nor the national defense would receive any benefit. Thus, the number of vessels available for use in national emergency and in war would be reduced, and, likewise, opportunities for employment of American seamen would be reduced.

Summarizing, it appears that any benefits to the domestic shipbuilding industry from the bill are conjectural, since there is no definite possibility that rebuilding will be done in the higher cost domestic yards. On the other hand, there is no definite possibility

that coastwise ship operators contemplate any substantial foreign rebuilding from which the coastwise fleet would benefit. It seems, therefore, that the issue raised by the bill is primarily one of basic legislative policy for determination by the Congress.

It is our understanding that the Department of the Treasury is submitting for your consideration certain amendments to the bill designed to clarify its administration, if enacted, particularly with reference to the definition of the word "rebuilt" and the inclusion of a requirement for reporting of any rebuilding of United States ships done abroad. We have no objection to the report requirement.

We believe that some clarification of the definition of "rebuilt" is desirable, in that it may be so general as to unduly penalize a shipowner with the loss of his coastwise privilege because of some relatively minor alteration of the ship. We defer to the views of the Department of the Treasury in this respect. The committee may wish to consider an amendment as follows:

Page 3, line 10, after the word "means", insert a comma and the following: "subject to such rules and regulations as the Secretary of Commerce and the Secretary of the Treasury jointly shall prescribe," and a comma.

There appears to be no compelling reason why vessels of lesser tonnage than those normally used in offshore service should be covered by the bill and it is recommended that only vessels of over 1,000 gross tons be covered. This could be accomplished by inserting after the word "vessel", both on page 1, line 7, and on page 2, line 4, the clause "of more than 1,000 gross tons".

As a matter of technical drafting, the word "Act" on page 2, line 9, should be stricken out and the following inserted in its place: "section 27 of the Merchant Marine Act, 1920, as amended, or in section 9 of the Shipping Act, 1916, as amended".

As stated above, we believe that the main issue involved in the bill is one of legislative policy for determination by the Congress, and the Department of Commerce has no objection to favorable consideration of the bill, subject to the considerations and amendments herein suggested for your attention.

We have been advised by the Bureau of the Budget that it would interpose no objection to the submission of this report to your committee.

Sincerely yours,

SINCLAIR WEEKS,
Secretary of Commerce.

STATE DEPARTMENT,
Washington, D. C., June 15, 1955.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Interstate and Foreign Commerce,
United States Senate.

DEAR SENATOR MAGNUSON: In accordance with your letter of May 3, 1955, and the Department's acknowledgment thereof dated May 5, 1955, consideration has been given S. 1864, to amend the shipping laws, to prohibit the operation in the coastwise trade of vessels rebuilt outside the Unired States, and for other purposes.

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S. 1864 would extend the protection presently afforded the American shipbuilding industry by the coastwise laws by denying participation in United States coastwise trade to vessels rebuilt in foreign shipyards. From the domestic point of view, this would appear to be a logical extension of the longstanding protection afforded our shipbuilding industry from foreign competition. From the standpoint of the Department's responsibilities, however, S. 1864 represents another restriction on the exchange of goods and services between nations. It is, therefore, inconsistent with the overall foreign economic policy being pursued by the United States. For this reason, the Department cannot recommend the enactment of the proposed legislation.

The Department has been informed by the Bureau of the Budget that there is no objection to the submission of this report.

Sincerely yours,

THRUSTON B. MORTON,
Assistant Secretary
(For the Secretary of State).

CHANGES IN EXISTING LAWS

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are as follows (new matter is printed in italics, existing law in which no change is proposed is shown in roman):

MERCHANT MARINE ACT, 1920

(U. S. C., 1952 edition, title 46, sec. 883)

SEC. 883. Transportation of merchandise between points in United States in other than domestic-built and documented vessels.

No merchandise shall be transported by water, or by land and water, on penalty of forfeiture thereof, between points in the United States, including Districts, Territories, and possessions thereof embraced within the coastwise laws, either directly or via a foreign port, or for any part of the transportation, in any other vessel than a vessel built in and documented under the laws of the United States and owned by persons who are citizens of the United States, or vessels to which the privilege of engaging in the coastwise trade is extended by section 13 or 808 of this title: *Provided*, That no vessel having at any time acquired the lawful right to engage in the coastwise trade, either by virtue of having been built in, or documented under the laws of the United States, and later sold foreign in whole or in part, or placed under foreign registry, shall hereafter acquire the right to engage in the coastwise trade: *Provided further*, That this section shall not apply to merchandise transported between points within the continental United States, excluding Alaska, over through routes heretofore or hereafter recognized by the Interstate Commerce Commission for which routes rate tariffs have been or shall hereafter be filed with said Commission when such routes are in part over Canadian rail lines and their own or other connecting water facilities: *Provided further*, That this section shall not become effective upon the Yukon River until the Alaska Railroad shall be completed and the Secretary of Commerce shall find that proper facilities will be furnished for transportation by persons citizens of the United States

for properly handling the traffic: *Provided further,* That this section shall not apply to the transportation of merchandise loaded on railroad cars or to motor vehicles with or without trailers, and with their passengers or contents when accompanied by the operator thereof, when such railroad cars or motor vehicles are transported in any railroad car ferry operated between fixed termini on the Great Lakes as a part of a rail route, if such car ferry is owned by a common carrier by water and operated as part of a rail route with the approval of the Interstate Commerce Commission, and if the stock of such common carrier by water, or its predecessor, was owned or controlled by a common carrier by rail prior to June 5, 1920, and if the stock of the common carrier owning such car ferry is, with the approval of the Interstate Commerce Commission, now owned or controlled by any common carrier by rail and if such car ferry is built in and documented under the laws of the United States. *Provided further, That no vessel of more than five hundred gross tons which has acquired the lawful right to engage in the coastwise trade, either by virtue of having been built in or documented under the laws of the United States, and which has later been rebuilt outside the United States, its Territories (not including trust territories), or its possessions shall have the right thereafter to engage in the coastwise trade.*

Sec. 2. If any vessel of more than five hundred gross tons documented under the laws of the United States, or last documented under such laws, is rebuilt outside the United States, its Territories (not including trust territories), or its possessions, a report of the circumstances of such rebuilding shall be made to the Secretary of the Treasury upon the first arrival of the vessel thereafter at a port within the customs territory of the United States in accordance with such regulations as the Secretary may prescribe. If the required report is not made, the vessel, together with its tackle, apparel, equipment, and furniture, shall be forfeited, and the master and owner shall each be liable to a penalty of $200. Any penalty or forfeiture incurred under this Act may be remitted or mitigated by the Secretary under the provisions of section 5294 of the Revised Statutes of the United States, as amended (U. S. C., 1952 edition, title 46, sec. 7).

Sec. 3. The Secretary of the Treasury shall prescribe such regulations as may be necessary to carry out the purposes of this Act.

Sec. 4. This Act shall be effective from the date of enactment hereof: Provided, however, That no vessel shall be deemed to have lost its coastwise privileges hereunder if it is reuilt under a contract entered into before such date of enactment and if the work of rebuilding is commenced not later than six months after such date of enactment.

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Calendar No. 2419

84TH CONGRESS, 2d Session } SENATE { REPORT No. 2396

EXTENDING THE APPLICATION OF THE TEMPORARY PROMOTION ACT OF 1941 TO THE COAST GUARD

JULY 2, 1956.—Ordered to be printed

Mr. SMATHERS, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT

[To accompany H. R. 11402]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H. R. 11402) to extend the existing application of the Temporary Promotion Act of 1941, as amended, to the Coast Guard, and for other purposes, having considered the same, report favorably thereon with amendment, and recommend that the bill as amended do pass.

BACKGROUND

Before World War II, the Coast Guard did not have a ceiling upon its officer strength. After World War II, a ceiling of 2,250 men was placed upon the Coast Guard officer personnel, which, at that time, numbered approximately 1,800 officers. Subsequent to the placement of the ceiling figure, various duties were added to the Coast Guard responsibilities. At the outbreak of the Korean incident, the officer strength numbered 2,100, which expanded to approximately 3,100 due to the Korean conflict.

At the present time, the Coast Guard has approximately 2,600 officers out of a total complement of 30,000 officers and men. The authority under which the Coast Guard is permitted to operate beyond its authorized strength will expire in the near future. There was testimony at the hearing that there is no indication that the duties and responsibilities of the Coast Guard will decrease. The witness explained that it was not the intention of the Coast Guard to expand but merely to provide adequate officer personnel for its present duties and the necessary expansion required in case of emergency.

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PURPOSE OF THE BILL

The bill extends the application of the Temporary Promotion Act of 1941, as amended, until January 1, 1962, as such act relates to the Coast Guard. The bill, as introduced and passed by the House of Representatives, also increases the maximum authorized commissioned officer strength from 2,250 to 3,500 and contains provisions for certain promotion flexibility and oath of office procedure.

COMMENT

The committee feels that the bill should be amended to reduce the maximum authorized strength from 3,500 to 3,000 officers. A certain ratio of enlisted personnel to officer strength has been established in all of the services and the figure of 3,000 officers is more in line with this ratio than the higher figure. In the event of an emergency, the Congress is always available to increase the maximum authorized strength if the facts so warrant. Accordingly, the bill has been amended to read "3,000" instead of "3,500", and the committee recommends that the bill, as amended, do pass.

The departmental reports follow:

TREASURY DEPARTMENT,
Washington, May 18, 1956.

The SPEAKER OF THE HOUSE OF REPRESENTATIVES.

MY DEAR MR. SPEAKER: There is transmitted herewith a draft of a proposed bill, to extend the existing application of the Temporary Promotion Act of 1941, as amended, to the Coast Guard, and for other purposes.

The purposes of this proposal are (1) to amend section 16 of the act of July 23, 1947 (ch. 301, 61 Stat. 413), as amended, so as to extend until January 1, 1962, the existing application of the Temporary Promotion Act of 1941, as amended, to the Coast Guard—the existing application of the act expires on January 1, 1957; (2) to amend section 42 of title 14, United States Code, entitled "Coast Guard," so as to increase the limitation on the number of officers on the active list of the Coast Guard from 2,250 to 3,500, and to provide that the authorized number of officers in any grade is temporarily increased between computations by the number of officers originally appointed during that period and the number of officers of that grade for whom vacancies exist in the next higher grade but whose promotion has been delayed for any reason; and (3) to amend title 14, United States Code, by adding a new section 439 thereto providing that a commissioned or warrant officer of the Coast Guard who has served continuously since he took the oath of office is not required to take a new oath upon his promotion to a higher grade.

The attached memorandum describes in more detail the need for and nature of the proposed bill.

Enactment of the proposed bill would not result in a need for an increase in appropriations.

It would be appreciated if you would lay the proposed bill before the House of Representatives. A similar proposed bill has been transmitted to the President of the Senate.

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The Department has been advised by the Bureau of the Budget that there is no objection to the submission of this proposed legislation to the Congress.

Very truly yours,

DAVID W. KENDALL,
Acting Secretary of the Treasury.

MEMORANDUM RE DRAFT BILL TO EXTEND THE EXISTING APPLICATION OF THE TEMPORARY PROMOTION ACT OF 1941, AS AMENDED, TO THE COAST GUARD, AND FOR OTHER PURPOSES

At the beginning of World War II all commissioned officers of the Coast Guard were serving under permanent appointments. The Temporary Promotion Act of 1941 (act of July 24, 1941, 34 U. S. C. 350 et seq.; 55 Stat. 603) provided for temporary appointment and promotion of commissioned and warrant officers of the Navy and Coast Guard. Permanent promotions of officers in the Navy and Coast Guard were suspended during the war by the act of June 30, 1942 (56 Stat. 463). Following the end of hostilities this suspension was lifted and permanent promotions were again made.

After the war it was obvious that a need would continue for some years for the retention on active duty of officers with temporary appointments in both the Navy and Coast Guard. So, with respect to the Coast Guard, the application of the Temporary Promotion Act of 1941 to the Coast Guard was continued by section 16 of the act of July 23, 1947 (61 Stat. 413), as amended, "Until such time as the Secretary shall determine that the number of officers holding permanent appointments on the active list of the Coast Guard is equal to 95 percent of the number of such officers authorized by law, exclusive of extra numbers, or on January 1, 1957, whichever shall occur earlier." The "95 percent condition" has not been met; the Temporary Promotion Act is still in effect with respect to the Coast Guard. However, its expiration on January 1, 1957, necessitates an extension of the application of the act to the Coast Guard. If the present national emergency continues to exist after January 1, 1957, the President could by Executive order invoke the application of the Temporary Promotion Act of 1941 to the Coast Guard; however, it is uncertain that the present emergency will continue after that time. Continued authority for temporary appointments and promotions is needed because world conditions show clearly that the number of officers on active duty in the Coast Guard in the foreseeable future will be greater than the number authorized by permanent law. Moreover, many of the temporary commissioned officers now on active duty in the Coast Guard cannot meet all of the requirements for a permanent commission although they are well-qualified for the limited duties to which they are assigned. If the temporary appointment authority expires without extension, to fill the existing needs of the service it would become necessary either to (1) tender permanent appointments to commissioned grades to temporary officers who are not fully qualified for permanent appointment; (2) revert such temporary officers to their permanent status and call reservists to active duty; or (3) make permanent appointments from among the sources provided in section 225 of title 14. Any of these alternatives is less practicable than extending the present temporary appointment and promotion authority.

The maximum authorized commissioned officer strength of the Coast Guard was set at 2,250 by section 1 of the act of July 23, 1947 (61 Stat. 413). This provision was reenacted in section 42 of title 14, United States Code by the act of August 4, 1949, and is presently in effect.

The justification for the enactment of the maximum-strength provision in 1947 is set forth in House Report No. 622, 80th Congress:

"Authorization of the new ceiling of 2,250 is based on an estimate of the number of officers, not including chief warrant and warrant officers, required to perform the normal peacetime duties of the Coast Guard. Your committee is of the opinion that the limitation of 2,250 commissioned officers is a reasonable estimate of the service's requirements during the near future, providing a number sufficiently large to permit the Coast Guard efficiently to fulfill its duties and at the same time sufficiently small to insure against unnecessary cost to the Nation and its taxpayers. It should be noted that this figure is merely an authorization; the actual number of officers serving in the Coast Guard will be established by the appropriations made available to this service."

At the time this statement was made in 1947 approximately 1,800 officers were on active duty in the Coast Guard. The limitation of 2,250 then established appeared adequate to provide for any foreseeable normal peacetime growth. By early 1950, however, additional duties and requirements had necessitated the building up of the onboard officer strength to approximately 2,160, which was within 100 of the limitation. Thus, with the outbreak of the Korean incident, the Coast Guard would not have had the statutory authority to augment its forces beyond 2,250 officers had it not been that the limitation was suspended by the act of August 3, 1950 (64 Stat. 408), as were the personnel ceilings in the other Armed Forces. Since that time the Coast Guard requirement for officers has been considerably in excess of the limitation of 2,250, reaching a peak of over 3,100 at one time. The number of officers on active duty at present is approximately 2,600. The existing limitation on personnel ceilings under the act of August 3, 1950 (64 Stat. 408), as amended, expires on July 31, 1957, if not renewed. If the suspension is not renewed the officer ceiling will revert to 2,250. Raising the ceiling to 3,500 officers as proposed would provide authority for an increase in officer strength in the event of a sudden increase in service commitments comparable to that required by the Korean incident.

Furthermore, if the suspension is not renewed it is doubtful that the Coast Guard would be able to carry out its commitments in the foreseeable future with 2,250 officers. Moreover, a forced reduction in officer strength to 2,250 would require substantial numbers of reductions in grade and separations resulting in further serious impairment of service efficiency. The situation described would be obviated by increasing the maximum commissioned officer strength to 3,500 as proposed. It is emphasized again that such an increase would be merely an authorization; the actual number of officers serving in the Coast Guard at any time would be established by the appropriations made available to the service.

It is also proposed to amend section 42 of title 14, United States Code, to provide for a temporary increase in the authorized number of officers in any grade by the number of officers originally appointed

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in that grade. There is usually a technical violation of the present section 42 when the graduates of the Coast Guard Academy are commissioned. The computation provided for in section 42 may be based only on the officers who have been commissioned. Section 42 provides that the number computed for each grade is the authorized number of officers for that grade; the implication is that that number may not be exceeded. Thus, by a strict interpretation of the section the number of graduates of the Coast Guard Academy who are commissioned should be limited to the vacancies in the ensign and lieutenant (junior grade) bracket. Usually the number of vacancies in that bracket at the time of graduation is less than the number of graduates. The technical violation of section 42 results from the number of vacancies being less than the number of graduates commissioned. The proposed amendment would obviate this situation.

The other proposed amendment to section 42 is to permit the authorized number of officers in a grade to be exceeded by the number of officers for whom vacancies exist in the next higher grade but whose promotion has been delayed. The purpose of this amendment is to avoid the necessity under present section 42 of postponing certain promotions when there is a delay in the promotion of an officer for whom a vacancy exists in a higher grade. A delay in promotion may result from a temporary inability to pass a physical examination, necessity for taking a reexamination to meet professional requirements, pending disciplinary action, or other reason. At present, for example, if the promotion of a commander to captain is delayed, the promotions of a lieutenanct commander to commander, a lieutenant to lieutenant commander, etc., are also delayed through no fault of their own. This is unfair to the officers affected. The proposed amendment to section 42 would remedy this defect in the law.

The proposed new section 439 of title 14 provides that a commissioned or warrant officer of the Coast Guard who has served continuously since he took the original oath of office need not take a new oath upon his promotion to a higher grade. At present in the Coast Guard an officer who is promoted is required to take a new oath. There is no such requirement in any of the other Armed Forces. The elimination of the oath requirement will result in a substantial decrease in the administrative workload.

COMPTROLLER GENERAL OF THE UNITED STATES
Washington, June 28, 1956.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Interstate and Foreign Commerce,
United States Senate.

DEAR MR. CHAIRMAN: Your letter of June 20, 1956, requests a report on H. R. 11402, which would extend until January 1, 1962, the application of the temporary promotion provisions of the act of July 24, 1941, as amended, to the Coast Guard and increase the maximum authorized commissioned officer strength from 2,250 to 3,500. The bill would also authorize a temporary increase in the authorized number of officers in any grade by the number of officers originally appointed in that grade in order to prevent an excess number of officers in grades incident to the commissioning of graduates of the Coast Guard Academy.

Under the provisions of the act of June 3, 1948, 62 Statute 302, the act of July 24, 1951, will expire on January 1, 1957, insofar as it

applies to the Coast Guard, at which time then existing temporary appointments made pursuant to that act may also expire, which would result in reductions in grade to officers serving under temporary appointments. Compare 35 Comptroller General 191. It appears from a memorandum quoted in the report of the Committee on Merchant Marine and Fisheries, House of Representatives, Report No. 2298, that there are presently about 2,600 officers of the Coast Guard on active duty.

The Coast Guard has expressed a doubt that it would be able to carry out its commitments under the present personnel ceilings and that increasing that ceiling to 3,500 would provide authority for an increase in officer strength if a sudden increase occurs in service commitments comparable to that required by the Korean incident. The actual number of officers serving on active duty would be determined by the actual needs of the service and the appropriations available.

We have no objection to enactment of the bill.

Sincerely yours,

JOSEPH CAMPBELL,
Comptroller General of the United States.

DEPARTMENT OF THE NAVY,
OFFICE OF THE JUDGE ADVOCATE GENERAL,
Washington, D. C., May 31, 1956.

Hon. HERBERT C. BONNER,
Chairman, Committee on Merchant Marine and Fisheries,
House of Representatives, Washington, D. C.

MY DEAR MR. CHAIRMAN: Your request for comment on H. R. 11402, a bill to extend the existing application of the Temporary Promotion Act of 1941, as amended, to the Coast Guard, and for other purposes, has been assigned to this Department by the Secretary of Defense for the preparation of a report thereon expressing the views of the Department of Defense.

The so-called Temporary Promotion Act of 1941, as amended (34 U. S. C. 350–350k), applies to the Navy, Marine Corps, and Coast Guard. As to the Navy and Marine Corps, it is permanent law, applicable during any war or national emergency declared by the President. Section 16 of the act of July 23, 1947 (ch. 301, 61 Stat. 413), provides, however, that the application of the Temporary Promotion Act to the Coast Guard will terminate when the number of permanent active-list officers of the Coast Guard reaches 95 percent of the authorized number or on January 1, 1957, whichever is earlier. H. R. 11402 would substitute January 1, 1962, for January 1, 1957.

The bill would amend section 42 of title 14, United States Code, so as to increase the authorized commissioned officer strength of the Coast Guard from 2,250 to 3,500. It would further amend section 42 by adding a provision that the authorized number of officers in a grade is temporarily increased between one computation and the next by the number of officers originally appointed in that grade during that period and the number of officers for whom vacancies exist in the next higher grade but whose promotion has been delayed. This provision is the same in substance as provisions relating to the Navy and Marine Corps in sections 103 (f) and 303 (g) of the Officer Personnel Act of 1947, as amended (34 U. S. C. 4 (f) and 5a (g)), and the act of July 3, 1926 (34 U. S. C. 285a).

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The bill would also add a new section 439 to title 14, United States Code, to provide that a Coast Guard officer who has served continuously since taking the original oath of office is not required to take a new oath upon promotion to a higher grade. The act of October 14, 1942 (10 U. S. C. 558), relating to the Army and Air Force, and section 2 of the act of May 22, 1950 (34 U. S. C. 593a), relating to the Navy and Marine Corps, contain similar provisions.

The Department of the Navy, on behalf of the Department of Defense, interposes no objection to the enactment of H. R. 11402.

This report has been coordinated within the Department of Defense in accordance with procedures prescribed by the Secretary of Defense.

The Department of the Navy has been advised by the Bureau of the Budget that there is no objection to the submission of this report on H. R. 11402 to the Congress.

Sincerely yours,

W. R. SHEELEY,
Rear Admiral, United States Navy,
Acting Judge Advocate General of the Navy
(For the Secretary of the Navy).

CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italics, existing law in which no change is proposed is shown in roman):

SECTION 16 OF THE ACT OF JULY 23, 1947, AS AMENDED

SEC. 16. All Acts or parts of Acts inconsistent with this Act are hereby repealed; but the Act of July 24, 1941, as amended, shall continue to have application to the Coast Guard until such time as the Secretary of the Treasury shall determine that the number of officers holding permanent appointments on the active list of the Coast Guard is equal to 95 per centum of the number of such officers authorized by law, exclusive of extra numbers, or on [January 1, 1957] *January 1, 1962,* whichever shall occur earlier.

SECTION 42 OF TITLE 14, UNITED STATES CODE

§ 42. Number and distribution of commissioned officers

The total number of commissioned officers, including permanent, temporary, temporary service, and reserve officers on active duty, and excluding commissioned warrant officers, on the active list of the Coat Guard shall not exceed [two thousand two hundred and fifty] *three thousand.* Included in this number are the extra numbers in grade which under law operate to increase the authorized number of line officers upon separation or retirement of the person holding that number, and the members of the permanent commissioned teaching staff of the Coast Guard Academy, who shall not be considered as extra numbers in grade. The commissioned officers shall be distributed in the grades of rear admiral, captain, commander, lieutenant commander, lieutenant, lieutenant (junior grade), and ensign in the same percentages as prescribed by Act of Congress for the Navy.

To determine the authorized number of officers in the various grades as provided in this section the computation shall be based on the actual number of officers on active duty, including permanent, temporary, and reserve officers on active duty, but not including extra numbers in the Coast Guard at the date of making the computation. The Secretary shall, at least once each year, make such computation, and the resulting numbers in the various grades as so computed shall be held and considered for all purposes as the authorized number in such various grades, *except that the authorized number for a grade is temporarily increased during the period between one computation and the next by the number of officers originally appointed in that grade during that period and the number of officers of that grade for whom vacancies exist in the next higher grade but whose promotion has been delayed for any reason.* The nearest whole number shall be regarded as the authorized number in case fractions result in the computation. The Secretary may, however, as he may from time to time determine the needs of the Coat Guard require, reduce the percentages applicable to any grade above lieutenant commander, and in order to compensate for such reduction increase correspondingly the percentages applicable to any grade or grades below the grade or grades in which such percentages are so reduced. No officer shall be reduced in permanent grade or pay or removed from the active list of the Coast Guard as the result of any computation or determination made by the Secretary to establish the number of officers in the various grades. (Aug. 4, 1949, ch. 393, § 1, 63 Stat. 497.)

TITLE 14 UNITED STATES CODE

§ 439. Oath of Office

A commissioned or warrant officer of the Coast Guard or Coast Guard Reserve who has served continuously since he subscribed to the oath of office prescribed in section 16 of title 5, is not required to take a new oath upon his promotion to a higher grade.

ANALYSIS, CHAPTER 11, TITLE 14, UNITED STATES CODE

§ 439. Oath of Office

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Calendar No. 2420

84TH CONGRESS, 2d Session | SENATE | REPORT No. 2397

PROVIDING FOR APPOINTMENT OF CHIEF LEGAL OFFICERS OF CERTAIN DEPARTMENTS IN THE EXECUTIVE BRANCH BY THE PRESIDENT, BY AND WITH THE CONSENT OF THE SENATE

JULY 2, 1956.—Ordered to be printed

Mr. MCCLELLAN, from the Committee on Government Operations, submitted the following

REPORT

[To accompany S. 4076]

The Committee on Government Operations, to whom was referred the bill (S. 4076) to provide for the appointment of the chief legal officers of certain departments in the executive branch by the President, by and with the consent of the Senate, having considered the same, report favorably thereon, with amendments, and recommend that the bill, as amended, do pass.

The amendments are as follows:

On page 2, after line 6, insert the following new section:

SEC. 2. In the event that the bill entitled "A bill to conform the appointment and compensation of the chief legal officer of the Post Office Department to the method of appointment and rate of compensation provided for comparable positions, and for other purposes" (H. R. 10523), Eighty-fourth Congress, second session, should be enacted into law having the provisions contained in such bill as it was favorably reported by the Committee on Post Office and Civil Service of the House of Representatives on June 21, 1956, such enactment shall supersede the provisions of this Act with respect to the Solicitor of the Post Office Department, without regard to the date of enactment of this Act.

Amend the title to read as follows:

A bill to provide for the appointment of legal officers of certain departments in the executive branch by the President, by and with the consent of the Senate.

The first of these amendments was approved in order to insure that, should the bill (H. R. 10523) reported favorably in the House of Representatives on June 21, 1956 (H. Rept. No. 2411), be approved by the Congress, creating a General Counsel in the Post Office Department, its broader provisions shall supersede the provisions of S. 4076 with respect to the Solicitor of the Post Office Department, without regard to the date of enactment.

The second of these amendments was adopted on the recommendation of the Department of Defense, and with the objective of overcoming certain objections raised by the chairman of the House Committee on Armed Services as set forth in this report. The purpose of the amendment is to insure that enactment of the bill will not affect the present status, duties, or functions of the Judge Advocate Generals of the Departments of the Army, the Navy, and the Air Force.

PURPOSE

Subsection (a) of the bill would provide for the appointment of the solicitor of the Post Office Department, and the General Counsels of the Departments of Agriculture, Army, Navy, and Air Force, by the President, with Senate confirmation. Enactment of the bill would give the designated legal officers of these Departments the same status as is now enjoyed by similar legal officers in other departments of the Government.

Subsection (b) provides that the bill would in no way affect the present incumbent of such office so long as that person continues to serve under an existing appointment. Any vacancies that may occur in such offices after enactment of the bill would be subject to the provisions of the act.

The bill further provides, in subsection (c), that nothing in the act shall alter the powers, duties or salary of any person serving in any office covered by the bill.

COMMITTEE ACTION

The committee reported a bill (S. 3768) (S. Rept. No. 2192) on June 11, 1956, which provided for the appointment by the President, with Senate confirmation, of a General Counsel as the chief legal officer of the Department of Health, Education, and Welfare. The bill, which was approved by the Senate on June 14, 1956, further provided that the General Counsel shall receive compensation at the rate provided for assistant secretaries of the executive departments, and shall act as Secretary during the absence or disability of the Secretary of Health, Education, and Welfare, and of the Under Secretary and the Assistant Secretaries.

The General Counsels of the Departments of Commerce, Defense, and Treasury, the Legal Adviser of the Department of State, and the Solicitors in the Departments of Interior and Labor are presently appointed by the President, with the advice and consent of the Senate. The enactment of S. 4076 and S. 3768 would provide for statutory appointment of comparable legal officers of the remaining executive departments.

The amendment approved by the committee will insure that, should it be approved by the Congress, the provisions of H. R. 10523 shall apply to the Post Office Department regardless of the date of enact-

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ment of S. 4076. H. R. 10523 provides for the appointment of a General Counsel (in lieu of a Solicitor) in the Post Office Department, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall have equal rank and basic compensation at the rate per annum provided for Assistant Postmasters General. The incumbent of the office of Solicitor shall serve as General Counsel at the rate of compensation provided for such office, pending appointment and confirmation of a General Counsel as provided by the act.

The amended title conforms to a recommendation of the Department of Defense, to avoid conflict in the status or functions of other legal officers of the Departments of the Army, Navy, and Air Force.

HOOVER COMMISSION RECOMMENDATIONS

The report of the Task Force on Legal Services of the Commission on Organization of the Executive Branch of the Government, in studying the problem covered by the subject bill, commented in its conclusions, as follows:

> * * * Within the executive departments, the chief legal officer should have the title or rank of Assistant Secretary for Legal Affairs; within the independent establishments, he should have the title or rank of General Counsel. * * *

In its recommendation No. 9, the task force concluded that—

> Legal services in the three military departments should be administered by the General Counsels of the Army, Navy, and Air Force, respectively, each to have the rank of Assistant Secretary in his department and, under the professional supervision of the General Counsel of the Department of Defense, to have responsibility for, and the direction of, all legal services within each such military department.

The Hoover Commission, in its report on legal services and procedures, approved the recommendation of its task force to include all departments. Its recommendations in this connection (No. 4 and No. 9) are as follows:

> *Recommendation No. 4.*—The legal staff of each department, agency, and regulatory body should be integrated under an Assistant Secretary for Legal Affairs or a General Counsel, except those small staffs in regulatory agencies which would advise and assist agency members in the performance of their quasi-judicial functions.
>
> *Recommendation No. 9.*—* * * Professional responsibility for legal services in the three military departments, subject to the direction of the Department of Defense General Counsel, should be vested in the General Counsels of the Army, Navy, and Air Force, each to have the rank of Assistant Secretary. * * *

The American Bar Association, endorsed a report of its special committee on legal services and procedures, recommending approval of the above-cited Hoover Commission recommendations, at a meeting of the House of Delegates on February 20, 1956.

The subject bill, S. 4076, as reported by the committee, while carrying out the purpose and intent of the Hoover Commission

recommendations, does not specifically require that the General Counsels shall have the rank of Assistant Secretaries; nor that the chief legal official of the designated departments "shall receive compensation at the rate now or hereafter provided by law for Assistant Secretaries of the executive departments," as provided in S. 3768 for the Department of Health, Education, and Welfare, approved by the Senate on June 14, 1956, and as proposed in H. R. 10523 for the Post Office Department.

The bill (S. 2628) providing for increased rates of compensation of the heads and assistant heads of executive departments and independent agencies, contained a provision, as originally reported (title I, subsec. (e)), that "the Legal Adviser, Solicitor, or General Counsel of an executive department when required to be appointed by the President," would be entitled to compensation equivalent to that paid to Assistant Secretaries. That bill was rereferred to the Senate Committee on Post Office and Civil Service on January 5, 1956, which has since taken no further action.

The pending bill does not change the compensation, powers or duties of the officers serving in the affected positions, since these matters are properly under study by the appropriate jurisdictional committees.

AGENCY COMMENTS

The following reports from the departments affected by the provisions of S. 4076 are submitted as a part of this report for the information of the Congress. These letters set forward the present status of the legal officers of the respective departments, and the views of the heads of the departments relative to the application of the provisions of S. 4076 to such departments.

In his report to the chairman, the Postmaster General recommended that S. 4076 be amended to conform to the provisions of H. R. 10523, referred to in this report. The committee amendment will accomplish the same objective, but leaves the question of increasing the status and pay of the Solicitor for final determination of the Congress on recommendations of the appropriate jurisdictional committees. Should H. R. 10523 or S. 3664 fail of final passage, and the subject bill becomes law, any successor to the present Solicitor will be required to be appointed by the President with Senate confirmation, but if his status and compensation is to rank equally with the Assistant Postmasters General, further clarifying legislative action should be initiated by the appropriate committees.

The Secretary of Agriculture concludes that—

> it is sound organizationally and from a standpoint of effective management to place in the department head both authority and responsibility for the appointment of his agency heads and staff officers—

but concludes that—

> if it is the feeling of the committee that the general counsel of all departments of the Government should be appointed under like authority and circumstances, I would raise no serious objection to inclusion of the General Counsel of this Department in the bill.

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The Department of Defense points up certain factors and possible conflicts relating to the status of the Judge Advocate Generals of the military departments, who are statutory officers appointed by the President, by and with the advice and consent of the Senate, and recommended that the title of the bill be amended so as to avoid any interpretation that the proposed change in the status of the General Counsels of the Departments of the Army, Navy, and Air Force would supersede or conflict with the functions, duties, or powers of the Judge Advocate Generals.

In a letter addressed to the chairman of this committee, the Honorable Carl Vinson, chairman of the House Committee on Armed Services, points out that his committee has had under study some of the legal problems and conflicts which have developed within the military departments. It is believed that the amendment approved on the recommendation of the Department of Defense, in which the title of the bill has been changed to eliminate reference to "the chief" legal officers, will not be in conflict with the objectives of the Committee on Armed Services. The bill provides for the Presidential appointment and Senate confirmation of the general counsels of the respective departments, without changing their powers, pay, or duties, and the amendment was adopted with the objective of retaining the present status of the Judge Advocate Generals of the respective military departments. The letter from Mr. Vinson is also included as a part of this report.

POST OFFICE DEPARTMENT,
OFFICE OF THE POSTMASTER GENERAL,
Washington, D. C., June 27, 1956.

Hon. JOHN L. MCCLELLAN,
Chairman, Committee on Government Operations,
United States Senate.

DEAR MR. CHAIRMAN: Reference is made to your request for the comments of this Department with respect to your bill (S. 4076) which provides, among other things, for the appointment of the chief legal officer of the Post Office Department, by the President, by and with the consent of the Senate. The appointment provisions of the bill do not apply to the present incumbent in the office of the Solicitor for the Post Office Department so long as he continues to serve in the office, and the act would not alter his "powers, duties, or salary."

I agree with you that the chief legal officers covered by this bill should be appointed by the President.

Our Solicitor is now appointed by the Postmaster General under authority of section 390 of the Revised Statutes as amended by section 1 of the act of July 16, 1914 (5 U. S. C. 364). By administrative action the position of Solicitor for the Post Office Department has been placed in grade GS–18 with per annum compensation at the rate of $14,800 provided by law (5 U. S. C. 1105, 1113).

In recent years Congress has elevated the positions of chief legal officers of the Departments of State, Defense, and Commerce to the level of Assistant Secretaries.

The Post Office Department is one of the largest single business enterprises in the world. As a department of Government it is second in size only to the Department of Defense. The legal problems which must be considered and determined by its chief legal officer cover the entire field of law. Certainly, his position is comparable

to the positions of those chief legal officers who rank, and receive the same compensation as, Assistant Secretaries.

On March 29, 1956, this Department, with the approval of the Bureau of the Budget, submitted to Congress a bill which conforms the appointment and compensation of the chief legal officer of the Post Office Department to the method of appointment and rate of compensation provided for such positions in the comparable executive departments. This legislation was introduced in the Senate as S. 3664, and in the House of Representatives as H. R. 10523.

These bills provide for the appointment of a General Counsel for the Post Office Department by the President, by and with the advice and consent of the Senate. They further provide that the General Counsel will receive basic compensation of and rank equally with the Assistant Postmasters General.

The House Committee on Post Office and Civil Service has reported on H. R. 10523 with an amendment. The committee has made it clear in the bill and in the report that enactment of the bill will abolish the position of Solicitor for the Post Office Department. The reported bill further provides that the incumbent in the office of Solicitor for the Post Office Department immediately prior to the effective date of the bill, shall serve as General Counsel for the Post Office Department and shall receive compensation at the rate provided in the bill for the office of General Counsel, pending appointment under the bill.

The Department therefore respectfully requests that S. 4076 be amended as follows:

1. Strike from subsection (a), lines 3 and 4, page 1 of the bill, "the Solicitor of the Post Office Department,".

2. After line 6, page 2 of the bill, insert the following:

"SEC. 2. (a) The provisions of law establishing the position of the chief legal officer of the Post Office Department (codified as section 364 of title 5, United States Code) are amended to read as follows: 'There shall be in the Post Office Department a General Counsel, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall have basic compensation at the rate per annum provided for Assistant Postmasters General, and shall rank equally with the Assistant Postmasters General.'

"(b) The incumbent in the office of Solicitor for the Post Office Department immediately prior to the time the amendment made by subsection (a) of this section becomes effective shall serve as General Counsel for such department and shall receive compensation at the rate provided for such office of General Counsel, pending appointment and confirmation of a General Counsel under the amendment made by such subsection (a) of this section."

I am attaching a marked-up copy of S. 4076, showing these suggested amendments.

This Department strongly urges that S. 4076 be amended as suggested, and that the amended measure receive early consideration and enactment by the Congress.

The Bureau of the Budget has previously advised that there would be no objection to legislation ranking and paying the chief legal officer of the Post Office Department as Assistant Secretaries are ranked and paid or requiring Senate confirmation of such official.

Sincerely yours,

MAURICE H. STANS,
Deputy Postmaster General.

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DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, June 26, 1956.

Hon. JOHN L. MCCLELLAN,
Chairman, Committee on Government Operations,
United States Senate.

DEAR SENATOR MCCLELLAN: Reference is made to your letter of June 18, 1956, attaching a copy of the bill S. 4076 and the report thereon which, if enacted, would provide for the general counsel of certain named departments of Government, including the Department of Agriculture, to be appointed by the President by and with the consent of the Senate.

Your letter requests that you be informed promptly as to how the present General Counsel is appointed, his grade and salary, and whether or not I agree that the position should be subject to Presidential appointment with Senate confirmation.

At the present time, the General Counsel of the Department of Agriculture is appointed by the Secretary of Agriculture and is in grade GS–18, with an annual salary of $14,800. The position is in schedule C.

While I recognize that certain advantages would accrue if the bill in question were enacted, I firmly believe that on the whole it is sound organizationally and from the standpoint of effective management to place in the Department head both authority and responsibility for the appointment of his agency heads and staff officers. This is in keeping with management principles recognized and supported by recommendations of the first Hoover Commission. Accordingly, I do not believe it advisable to extend authority for Presidential appointment to additional line or staff positions. I therefore see no need to include in the bill provision covering the General Counsel of the Department of Agriculture. However, if it is the feeling of the committee that the general counsel of all departments of Government should be appointed under like authority and circumstances, I would raise no serious objection to inclusion of the General Counsel of this Department in the bill.

Inasmuch as the compensation of these positions is being considered by the Senate Committee on Post Office and Civil Service, which now has under study S. 2628, it is recommended that paragraph (c) of S. 4076 be deleted.

The Bureau of the Budget advises that there is no objection to the submission of this report.

Thank you for this opportunity of expressing my reaction to the bill in its present form.

Sincerely,

E. T. BENSON, *Secretary.*

DEPARTMENT OF DEFENSE,
ASSISTANT SECRETARY OF DEFENSE,
Washington, D. C.

Hon. JOHN L. MCCLELLAN,
Chairman, Committee on Government Operations,
United States Senate.

DEAR MR. CHAIRMAN: This is in answer to your separate requests of June 19, 1956, to the Secretaries of the Army, Navy, and Air Force,

requesting their views and certain information relative to S. 4076, a bill to provide for the appointment of the chief legal officers of certain departments in the executive branch by the President, by and with the consent of the Senate. It is understood that your committee has tentatively approved the objectives of the bill but is withholding its report to the Senate pending receipt of answers to your letters of June 19.

S. 4076 provides that hereafter the Solicitor of the Post Office Department and the General Counsels of the Departments of Agriculture, Army, Navy, and Air Force shall be appointed by the President by and with the advice and consent of the Senate. The provisions of the bill would not apply to any person appointed before the date of enactment so long as such person continues to serve in such office under such appointment, and nothing contained in the bill would alter the powers, duties or salary of any person serving in any office named.

The Department defers to the views of the Post Office Department and the Department of Agriculture insofar as the positions in those Departments are concerned.

At the present time, the General Counsel of each of the military departments is appointed by the Secretary of the Department concerned. The grade is GS–18, the salary is $14,800 per annum. The General Counsels render legal advice on extremely important matters to officials of their departments concerned with policy determinations.

The general counsels or comparable officials of most executive departments are now appointed by the President by and with the advice and consent of the Senate. The Senate has recently passed S. 3768, a bill providing for a General Counsel for the Department of Health, Education, and Welfare to be appointed by the President by and with the advice and consent of the Senate. The offices of General Counsel of the Army, Navy, and Air Force are positions in stature and with duties and responsibilities at least as important as those of the general counsels of such other departments. The scope of their operations compares favorably with those of the offices of general counsel in other departments. Enactment of S. 4076 would generally conform the status and method of appointment of the general counsels of the military departments to that applicable to the comparable officers of other departments in the executive branch having comparable functions and responsibilities.

In this connection, it should be noted that the legal functions of the Departments of the Army, Navy, and Air Force are divided between the General Counsels of those Departments and the Judge Advocate Generals thereof. The General Counsel of the Department of Defense, an office established at the Office of the Secretary of Defense level, the incumbent of which is the chief legal officer of the Department of Defense, works directly with the General Counsels or the Judge Advocate Generals of the respective Departments. It should be noted that the Judge Advocate Generals of the military departments are statutory officers who are appointed by the President by and with the advice and consent of the Senate. Enactment of S. 4076 would give the General Counsels of the military departments a similar statutory status. It is pointed out that the words "the chief legal officers" in the title of the bill, while presumably appropriate for the Post Office Department and the Agriculture Department, for the reasons above indicated would be inappropriate as applied to the

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General Counsels of the military departments. It is, therefore, suggested that consideration be given to deletion of the words "the chief," as applied to the latter.

Accordingly, the Department of Defense interposes no objection to the enactment of S. 4076.

The enactment of this legislation will cause no increase in the budgetary requirements of the Department of Defense.

Inasmuch as the committee has requested that this report be expedited, it is submitted without clearance from the Bureau of the Budget. As soon as such clearance has been obtained, the committee will be informed.

Sincerely yours,

ROBERT TRIPP ROSS.

DEPARTMENT OF THE NAVY,
OFFICE OF THE SECRETARY,
Washington 25, D. C., June 28, 1956.

Hon. JOHN L. MCCLELLAN,
Chairman, Committee on Government Operations,
United States Senate, Washington 25, D. C.

MY DEAR SENATOR MCCLELLAN: This is in response to your letter dated June 19, 1956, relative to the bill S. 4076, which provides for the appointment of the chief legal officers in certain departments of the executive branch by the President, by and with the consent of the Senate. The bill as drafted would include the General Counsel of the Department of the Navy.

The General Counsel of the Department of the Navy occupies what is known as a schedule A position, which means that he is outside of the competitive civil service. He is a grade 18 employee. His salary is $14,800 a year. He has no specific term of office.

The Department of Defense has requested a Navy position on this matter and I have submitted further comment directly to the Secretary of Defense.

Your consideration and interest in the Navy's views in this matter are greatly appreciated.

Sincerely yours,

THOMAS S. GATES, Jr.,
Under Secretary of the Navy.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ARMED SERVICES,
Washington, D. C., June 26, 1956.

Hon. JOHN L. MCCLELLAN,
Chairman, Senate Committee on Government Operations,
Washington, D. C.

DEAR MR. CHAIRMAN: I note that on June 15 you introduced S. 4076, a bill to provide for the appointment of the chief legal officers of certain departments in the executive branch by the President, by and with the counsel of the Senate.

The initial part of section 1 of your bill relates to the Solicitor of Post Office Department and the General Counsel of the Depart-

ment of Agriculture. The remainder of section 1 relates to the General Counsel of the Department of the Army, the General Counsel of the Department of the Navy, and the General Counsel of the Department of the Air Force. These latter provisions relating to a general counsel in the military services are the ones that cause me very considerable concern.

I am sure you would want to know that the Secretary of Defense wrote to me on November 23, 1955, advising that he proposed to reorganize the legal services within the Department of Defense through the issuance of a directive. He forwarded a copy of his proposed directive with his letter.

On November 29, 1955, after having had an opportunity to examine the proposed directive, I wrote to Secretary Wilson, strongly opposing the issuance of his proposed directive. Since the convening of this session of the Congress, I have conferred with representatives of the Secretary, including the General Counsel of the Department of Defense and have reiterated to them my continuing opposition to the reorganization of the legal services within the Department of Defense by administrative action. In lieu thereof, I suggested that appropriate legislation be prepared, to encompass the viewpoint of the Department of Defense on this subject, and forwarded to the Congress for introduction. Since there are basic statutes relating specifically to the Judge Advocate General of the Army and the Judge Advocate General of the Navy, which it would be necessary to repeal in order to establish the office of General Counsel within the military departments by statute, I had assumed that if any legislative effort were to be made in this direction that it would be done in a manner which would result in legislation being referred to the respective Armed Services Committees.

I want to assure you that I do not question in the least your jurisdiction over the type of legislation which you have introduced, but I did want you to know that your legislation encompasses a subject which is of major and continuing interest to this committee. So, it is my earnest hope that if any legislative action is to occur which would alter the current statutory position of the respective judge advocates general, in relation to the office of general counsel which is today a nonstatutory office, that such legislation would be referred to the Armed Services Committee. While I cannot speak for the activities of the Senate Armed Services Committee in regard to this matter, I again want to assure you that the matter is under continuing and active consideration in this committee which has waited without results throughout this session for the submission of legislation on this subject.

Again, I assure you of my full respect for the jurisdiction of your committee and trust that you appreciate the overriding considerations which prompt me to write you on this subject.

Sincerely yours,

CARL VINSON, *Chairman.*

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Calendar No. 2421

84TH CONGRESS, 2d Session | SENATE | REPORT No. 2398

PROVIDING A TEMPORARY INCREASE IN THE PUBLIC DEBT LIMIT

JULY 2, 1956.—Ordered to be printed

Mr. BYRD, from the Committee on Finance, submitted the following

REPORT

[To accompany H. R. 11740]

The Committee on Finance, to whom was referred the bill (H. R. 11740) to provide a temporary increase in the public debt limit, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

GENERAL STATEMENT

Section 21 of the Second Liberty Bond Act, as amended, provides a limit of $275 billion on the amount of public-debt securities which may be outstanding at any one time. In an act approved August 28, 1954 (Public Law 686, 83d Cong., 2d sess.), the public-debt limit was increased from $275 billion to $281 billion, or by $6 billion, for the period beginning on the date of enactment of that act and ending on June 30, 1955. In an act approved June 30, 1955 (Public Law 124, 84th Cong., 1st sess.), this temporary $6 billion increase in the public-debt limit was extended for 1 year, or until June 30, 1956.

The Secretary of the Treasury has again requested a 1-year temporary increase in the debt limit, but this time has requested a $3 billion, instead of a $6 billion, increase, or has requested an increase from $275 billion to $278 billion, instead of to $281 billion. H. R. 11740 carries out the request of the Secretary. It provides that a public-debt limit of $278 billion is to apply for the period from July 1, 1956, to June 30, 1957. At the end of this period the debt limit would revert to $275 billion.

In his appearance before your committee, as in his appearance before the House Ways and Means Committee, the Secretary of the Treasury made the following statement:

> I am appearing before you today to ask for a temporary increase in the public-debt limit from $275 billion to $278 billion for the fiscal year 1957. Because of our improved

fiscal position, we are following the suggestion that the temporary increase granted by Congress for 2 years past be cut in half.

We succeeded in living within the $281 billion limit set a year ago, but by a narrow margin. On several days, we were within $700 million of the debt ceiling, and, at times, our operating cash balance was less than enough to cover 10 days' expenditures. This is closer than is prudent in handling the Government's huge operations efficiently.

However, I am in full sympathy with the desire of the Congress to keep a limit on Government spending.

We hope to finish this fiscal year with a budget surplus of about $1.8 billion and the debt under $273 billion. We still face, however, a heavy seasonal swing in receipts, which means borrowing in the first half of the fiscal year for repayment from heavy tax receipts in the second half.

This swing is gradually being reduced by the shift in time of payment of corporation taxes, provided by the 1954 legislation.

Taking these facts into account, I believe we can operate under a $278 billion ceiling, though it will take careful management. If this becomes impossible, we shall advise the Congress promptly.

Your committee is gratified that the temporary increase this year is $3 billion rather than $6 billion. The request for a smaller temporary increase results from a budgetary surplus for the fiscal year 1956 and from the fact that corporate taxpayments are gradually being spread more evenly over the year which makes it unnecessary to borrow in the forepart of the fiscal year to the same extent as previously. This arises from the system of declarations of estimated tax adopted for larger corporations which calls for quarterly taxpayments, with payments for calendar year corporations in September and December, as well as the payments in the following March and June. This quarterly payment system is going into effect gradually, and will be two-fifths effective in 1956 and three-fifths effective in 1957, thus gradually spreading corporate taxpayments more evenly over the year. Your committee hopes that a continuation of the temporary increases in the limit will not be necessary next year because of a continued budgetary surplus and because the corporate taxpayments will be further accelerated next year.

This bill is reported unanimously by your committee.

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Calendar No. 2422

84TH CONGRESS, 2d Session } SENATE { REPORT No. 2399

EXTENDING FOR 2 YEARS THE EXISTING AUTHORITY OF THE SECRETARY OF THE TREASURY IN RESPECT OF TRANSFERS OF DISTILLED SPIRITS FOR CERTAIN PURPOSES

JULY 2, 1956.—Ordered to be printed

Mr. BYRD, from the Committee on Finance, submitted the following

REPORT

[To accompany H. R. 11714]

The Committee on Finance, to whom was referred the bill (H. R. 11714) to extend for 3 years the existing authority of the Secretary of the Treasury in respect to transfers of distilled spirits for purposes deemed necessary to meet the requirements of the national defense, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The committee amendments to H. R. 11714 are as follows:

(1) Amend the title to read as follows:

A bill to extend for two years the existing authority of the Secretary of the Treasury in respect of transfers of distilled spirits for certain purposes.

(2) Strike "July 11, 1959" and insert "July 11, 1958".

I. GENERAL STATEMENT

Section 5217 (a) of the Internal Revenue Code of 1954 authorizes the transfer of distilled spirits between alcohol plants and registered distilleries or internal revenue, or industrial alcohol, bonded warehouses under certain circumstances. Subsection (b) of this section also permits the Secretary of the Treasury or his delegate temporarily to waive the application of any of the internal revenue laws relating to distilled spirits, except those imposing tax under certain circumstances. Although your committee has determined that subsection (b) has not been utilized during the past 5 years, it is recommended that the 2-year extension also be applicable to subsection (b) in order that it may be available as standby authority in the event that emergency conditions involving national defense should arise. Under present law the authority of the Secretary or his delegate to permit these transfers, or to waive the application of these internal-revenue

laws expires as of July 11, 1956. This bill extends this authority for 2 additional years instead of 3 additional years as provided in the House bill.

This bill is reported unanimously by the Finance Committee.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, H. R. 11714, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman).

SECTION 5217 OF THE INTERNAL REVENUE CODE OF 1954

SEC. 5217. EXEMPTIONS RELATING TO NATIONAL EMERGENCY TRANSFERS.

(a) TRANSFERS OF DISTILLED SPIRITS.—Under regulations prescribed by the Secretary or his delegate, distilled spirits of any proof including alcohol (the term "distilled spirits" or "spirits" as hereinafter used in this section shall include alcohol) may be removed in bond in approved containers and pipelines from any registered distillery including a registered fruit distillery (such registered distillery and registered fruit distillery hereinafter referred to in this section as "distillery"), internal revenue bonded warehouse, industrial alcohol plant, or industrial alcohol bonded warehouse to any distillery, internal revenue bonded warehouse, industrial alcohol plant, or industrial alcohol bonded warehouse for redistillation, or storage, or any other purpose deemed necessary to meet the requirements of the national defense: *Provided*, That any such distilled spirits may be stored in approved tanks in, or constituting a part of, any internal revenue bonded warehouse or industrial alcohol bonded warehouse: *Provided further*, That any such distilled spirits removed to an industrial alcohol plant or industrial alcohol bonded warehouse may be withdrawn therefrom if of a proof of 160 degrees or more for any tax-free purpose, or on payment of tax for any purpose, authorized by subchapter E; and any such distilled spirits removed to a distillery or internal revenue bonded warehouse may be withdrawn thereform if of a proof of 160 degrees or more for any tax-free purpose authorized by subchapter E or for any purpose authorized in the case of like spirits produced at a distillery: *Provided further*, That any such distilled spirits, upon removal from a distillery or internal revenue bonded warehouse for transfer to an industrial alcohol plant or industrial alcohol bonded warehouse or for any tax-free purpose authorized by subchapter E shall be subject to the provisions of part I of subchapter E: *Provided further*, That when any distilled spirits are removed under the provisions of this section to a distillery, industrial alcohol plant, or industrial alcohol bonded warehouse, the tax liability of the proprietor of the distillery, internal revenue bonded warehouse, industrial alcohol plant, or industrial alcohol bonded warehouse from which the spirits are removed, and the liens on such distillery, industrial alcohol plant, or industrial alcohol bonded warehouse, shall cease; and at and from the time the distilled spirits leave the distillery, internal revenue bonded warehouse, industrial alcohol plant, or industrial alcohol bonded warehouse, the tax shall be the liability of the

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proprietor of, and the liens shall be transferred to the premises of, the distillery, industrial alcohol plant, or industrial alcohol bonded warehouse to which the distilled spirits are transferred: *Provided further*, That when any distilled spirits are removed under the provisions of this section to an internal revenue bonded warehouse the proprietor of such warehouse shall be primarily liable for the tax on the spirits at and from the time the spirits leave the premises from which transferred: *Provided further*, That section 5011 (a) shall apply in respect of losses of any distilled spirits transferred, or removed for transfer, under this section to a distillery or internal revenue bonded warehouse; and section 5011 (c) shall apply in respect of losses of any distilled spirits transferred, or removed for transfer, under this section to an industrial alcohol plant or industrial alcohol bonded warehouse: *And provided further*, That section 5195 (a) and (b) shall not apply to the production or redistillation and removal of any such spirits; nor shall sections 5021 and 5081 apply to the redistillation or to the mingling at a distillery or an internal revenue bonded warehouse or in the course of removal, of any such spirits.

(b) EXEMPTION FROM STATUTORY REQUIREMENTS.—The Secretary or his delegate may temporarily exempt proprietors of distilleries, internal revenue bonded warehouses, industrial alcohol plants, or industrial alcohol bonded warehouses from any provision of the internal revenue laws relating to distilled spirits, except those requiring payment of the tax thereon, whenever in his judgment it may seem expedient to do so to meet the requirements of the national defense. Whenever the Secretary or his delegate shall exercise the authority conferred by this subsection he may prescribe such regulations as may be necessary to accomplish the purpose which caused him to grant the exemption.

(c) TERMINATION OF SECTION.—The authority conferred upon the Secretary or his delegate by this section shall expire at the close of July 11, [1956] *1958*.

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Calendar No. 2423

84TH CONGRESS, 2d Session } SENATE { REPORT No. 2400

TEMPORARY SUSPENSION OF DUTY ON CRUDE AND CALCINED BAUXITE

JULY 2, 1956.—Ordered to be printed

Mr. BYRD, from the Committee on Finance, submitted the following

REPORT

[To accompany H. R. 8228]

The Committee on Finance, to whom was referred the bill (H. R. 8228) to suspend for 2 years the duty on crude bauxite and on calcined bauxite, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE

The bill H. R. 8228 as referred to the Committee on Finance would provide for the suspension of the import duty on bauxite, crude, not refined or otherwise advanced in condition in any manner, and bauxite, calcined, regardless of the purpose for which it is imported. The suspension would end at the close of July 15, 1958.

GENERAL STATEMENT

Bauxite is a mineral used almost entirely in the production of alumina, refractories, and abrasives and is vital to the industries producing aluminum, steel, and chemicals. It is one of the commodities considered vital to the national defense.

Domestic production has been maintained at a high level in recent years, but the increasing demand has been such that the domestic supply has had to be augmented by shipments from foreign sources. Domestic sources supply only about one-third of the requirements in this country and unless new domestic deposits are found the supply will be much lower within the foreseeable future.

Crude bauxite, not refined or otherwise advanced in condition in any manner, was originally dutiable under paragraph 207 of the Tariff Act, of 1930 at $1 per long ton. The duty was reduced to 50 cents per long ton effective January 1, 1948. Calcined bauxite was originally dutiable under paragraph 214 of the Tariff Act of 1930 at the rate

of 30 percent ad valorem. The duty on calcined bauxite was reduced to 15 percent ad valorem effective January 1, 1948. Public Law 852 of the 81st Congress prescribed a duty of $1 per long ton for "bauxite, calcined, when imported to be used in the manufacture of firebrick, or other refractories, * * *". Other imported calcined bauxite remained dutiable under paragraph 214 at the modified rate of 15 percent ad valorem. The effect of the prescription of a duty of $1 per long ton on calcined bauxite for use in the manufacture of refractories was to reduce substantially the amount of duty collectible on this product. Public Law 499 of the 83d Congress suspended the duty for 2 years effective July 16, 1954, on crude bauxite, and on calcined bauxite, when imported for use in the manufacture of firebrick and other refractories.

H. R. 8228, in addition to continuing the suspension on the types already mentioned, would extend the temporary free entry to "abrasive grade" bauxite. The chemical composition of the ores are not dissimilar and they are, to some extent, interchangeable in cases where shortages exist.

The Departments of State, Treasury, Commerce, Labor, and the Interior favor or have no objections to the passage of the bill and the Finance Committee urges that the Senate concur with the House and enact it into law.

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Calendar No. 2424

84TH CONGRESS, 2d Session | SENATE | REPORT No. 2401

DOMESTIC INDUSTRIES AFFECTED BY FOREIGN IMPORTS

JULY 2, 1956.—Ordered to be printed

Mr. BYRD, from the Committee on Finance, submitted the following

REPORT

together with

MINORITY VIEWS

[To accompany S. Res. 236]

The Committee on Finance, to whom was referred the resolution (S. Res. 236) relating to textiles and textile products, report favorably thereon with amendments and recommend that the resolution as amended do pass.

The amendments are as follows:

(1) Add a new whereas clause as follows:

Whereas the Senate is gravely concerned over the acute distress existing in segments of the domestic textile industry and the greatly increasing importations of foreign textiles and textile products, and recognizes, with equally grave concern, that the impacts of imports of foreign articles may be causing or threatening serious injury to domestic producers of textiles and other products; and

(2) Amend the body of the resolution to read as follows:

Resolved, That in the light of the acute distress existing in segments of the domestic textile industry, it is the sense of the Senate that the President should give immediate consideration to the impact of imports of textiles and textile products on such industry, with a view to determining whether the authority granted to him under section 22 of the Agricultural Adjustment Act, as amended, section 204 of the Agricultural Act of 1956, the Trade Agreements Extension Act of 1951, as amended, section 350 of the Tariff Act of 1930, as amended, or other law, should be exercised with respect to imports of any textiles or textile products;

Resolved further, That the United States Tariff Commission is directed to expedite and, wherever practicable, to give priority to, investigations now pending, or which may hereafter be instituted, under section 7 of the Trade Agreements Extension Act of 1951, as amended (escape clause investigations), relating to textiles or textile products or any other articles or products.

GENERAL STATEMENT

Senate Resolution 236, as referred to the Finance Committee, would have directed the Tariff Commission to initiate escape-clause investigations on all commodities in the textile or textile products categories. The committee in executive session consulted with the Chairman of the Tariff Commission and his aids as to the feasibility and effectiveness of the proposal and discussed that an alternative measures.

It was brought out that such a directive would necessitate some 790 concurrent and separate investigations and that imports of foreign textiles were concentrated on relatively few classifications. The committee, although in sympathy with the purpose of the resolution, deleted the requirement that the Tariff Commission conduct investigations on all textiles and textile products, choosing to rely on the capability of the executives of business enterprises to make their own appeals to the Tariff Commission under the escape clause when and if they feel that imports are causing or threatening injury to their respective industries.

The committee wishes to emphasize that the Tariff Commission is required to conduct these investigations and to report within 9 months whether initiated by an appeal from an affected industry or by direction of the Senate.

The committee, although fully aware of the gravity of the problems of the textile industry, and of a number of other industries, took note that there may be contributing factors in those problems other than the rapidly mounting volume of imports. It is not anticipated that any closer supervision or regulation of imports could cure all of the ills of any industry, but it is evident that in certain segments of the textile and other industries there is increasing distress concurrent with substantial increases in imports.

Imports may be a very important contributing factor to injury of segments of an industry when plants are closing and hundreds of workers are being laid off when it is known that the increase in imports is of such magnitude that many hundreds of workers would be required to make domestically that which is entering from abroad.

The committee is aware of the difficult international situation and of the sacrifices that must be made to preserve the trade and friendship of foreign countries. At the same time it notes that many small factories and mills, the economic lifeblood of whole communities, are being forced to close and the imports of the 1 or 2 types of products made in those plants have taken over a large percentage of the United States market. Large plants may diversify to some extent, or may absorb losses in 1, 2, or even several lines, but small companies frequently have no choice but to cease operations. In such cases imports

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may be a very substantial contributing factor in the injury being suffered, and a whole segment of the industry may be seriously endangered.

The committee-approved resolution would direct the Tariff Commission to expedite escape-clause investigations regardless of how initiated, and to give such investigations precedence wherever practicable.

The committee also approved a provision which called attention to the fact that the President has authority under several laws to take remedial and, where necessary, emergency action to relieve distress in industries being affectd by increasing imports. No mandate was placed upon the President to take any specific action, but the resolution if adopted as reported would indicate that it is the sense of the Senate that the President give immediate consideration to the impact of imports of textiles and of other products upon the domestic market.

The President has ample authority to take emergency or other action when he deems it advisable without in any way abrogating our trade agreement commitments.

The committee urges the adoption of Senate Resolution 236 as amended and believes that such adoption would serve as an additional stern warning that continued widespread unemployment resulting from excessive imports may endanger the whole trade agreement program.

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MINORITY VIEWS

The Senate Finance Committee has properly told the textile industry, by this resolution, that it should follow appropriate procedures under the escape clause provisions of the Reciprocal Trade Act. Further, by its action the committee recognizes that the problems of the industry center in certain selected areas. Yet, while accepting these points, the committee in reporting this resolution fails to appreciate the facts which the Tariff Commission report outlined and gives the impression that the industry as a whole is in some way seriously damaged by the imports of textiles and gives credence to the exaggerated claims of the industry that it is being harmed.

If this resolution is passed by the Senate, it will greatly increase the pressure upon the President and the Tariff Commission to impose import quotas and higher tariff duties upon the importation of foreign textile products.

The forces of high tariffs and protectionism which were in general retreat from 1934 to 1952 will be greatly strengthened and further pressure for similar action for chemicals, toys, plastics, pottery, and so forth, will be hastened. We should therefore look very carefully at what the results of such action would be.

The advocates of high tariffs and of further import quotes apparently see only the textile industry and have highly exaggerated fears of what Japanese and other foreign textiles have done or will do to their domestic market.

I have great sympathy for the workers and management in this industry but we should look at the problem with a steady eye. We should ask ourselves just how much trouble has actually been caused by the importation of foreign textiles, and what would be the effect upon our exports of thus limiting our imports by means of higher tariffs and import quotas. We should also take into consideration what effect such a policy would have upon the confederation of free nations which are trying to build up to resist Communist aggression.

1. The facts show that the claims of the textile industry about the losses they have suffered as a result of the importation of Japanese and other textiles have been greatly exaggerated.

In the first place there has been a technical revolution in the manufacture of textiles so that problems faced by a few sections of the industry are the result, in large part, of the new synthetic fibers—rayon, dacron, orlon, and nylon.

Second, as the Tariff Commission itself has stated (memorandum for the Senate Committee on Finance on S. Res. 236):

> The United States exports cotton manufactures to a far greater extent than it imports them; * * *

and—

> It should be noted, however, that an exceedingly small part of the domestic consumption of cotton manufactures is sup-

> plied by imports and that Japan accounts for only a part of such imports.

The Commission then adds in a footnote—

> The raw cotton content of those imports from Japan in 1955, for example, was equivalent to only about one-fifth of the raw cotton that the United States shipped to Japan in that year.

The Commission further states that though the ratio of United States imports to exports of cotton manufacturers has risen during recent years, "* * * that ratio is still very much lower than it was in the years immediately preceding World War II," and concludes by stating

> * * * it is clear that textile manufacturers in Japan do not have an "across the board" competitive advantage over the textile manufacturers in the United States.

A few facts to substantiate these points are in order.

(*a*) In 1955 domestic production of cotton cloth was about 11 billion square yards. Total imports of cotton cloth in 1955 were 133 million square yards—or 1½ percent of domestic production.

(*b*) Exports of cotton cloth were 542 million yards in 1955 or four times the volume of imports.

(*c*) Sales, profits, and profit margins for the industry were substantially higher in 1955 than in 1954, and the upward trend has continued in 1956. Yet it is during this period that imports have increased.

The proper method of approaching the problems of the industry in specific lines where it is claimed imports are providing serious injury, is to instigate escape-clause procedures under the Reciprocal Trade Act. The reluctance of the industry to accept this approach and instead to seek rigid quotas on all cotton imports, indicates their lack of confidence in their ability to make their case where facts, rather than fictions, are involved.

2. The restriction of imports which is suggested in this resolution will greatly reduce our exports and thus work hardship on a number of American industries including raw cotton and tobacco.

This is something which the high tariff advocates and the trade restrictionists find it almost impossible to understand or take into account. They fasten their attention upon the industries which they seek to protect and they neglect to notice the export industries which they injure.

And, more important, they often fail to recognize the interest of their own industry when looked at as a whole instead of by the jaundiced-eyed method of looking at a very few specific items. In 1955, for example, our exports of raw cotton were 2½ million bales of which one-fourth or about 647,000 bales went to Japan. The raw cotton content of our textile exports was an additional 523,000 bales whereas the raw cotton content of our textile imports was 130,000 bales, of which only about half came from Japan. Thus, certain segments of the cotton trade have difficulty in recognizing their own self-interest.

And yet the truth is that we cannot export unless we import and the more we restrict our imports, the more we cut off our exports. The

high tariff advocates and those who would restrict international trade proceed on a mistaken assumption, namely that we can continue to export to other nations even though we cut off or greatly reduce the exports of those nations to us.

This is impossible.

In the old days of the international gold standard the balance between exports and imports was automatically effected through gold movements and the operational national price levels. Thus if we curtailed our imports, the foreign countries could not pay for the goods which they imported from us by their export of other goods. They would then have been compelled to send us gold. This would have increased the supply of money in this country and have decreased the supply abroad. This in turn would have meant that our prices would have risen and theirs fallen. This in itself would cut down our exports and would increase those of the other countries above the immediately prior level, after our higher tariffs had been in effect. Ultimately a balance would have been struck between exports and imports but with smaller quantities being traded than before the imposition of the restrictions upon imports. Our export industries would have lost a portion of their market. If we completely cut off our imports then our exports would ultimately cease.

In any event, the advantages of the international division of labor would have been lessened and the gains which we derived from such international exchange would be greatly reduced. All countries including our own would lose.

3. At the present time, under the almost universal system of managed currencies and more or less pegged exchange rates in which gold plays a somewhat minor role, the results of increasing tariffs and imposing import quotas are the same, although the process is somewhat different.

The amount that any one country can purchase from abroad is limited by the amount of foreign credits which it holds at its disposal. These foreign credits are, in the main, obtained by selling goods to other countries. If the sale of these goods is reduced by the imposition of tariffs or import quotas, then the amount of foreign exchange which a given country holds is correspondingly decreased. This reduces its ability to buy from other nations so that the net volume of international trade diminishes. Since it cannot export as readily to other countries, other countries cannot as readily export to it.

A country which raises its tariffs and imposes import quotas to protect its own manufacturers will find rather speedily that it thereby restricts the sale of the goods which it exports. In the case of the United States, if we restrict the amount of cotton and woolen textiles which can be shipped to us, we will soon reduce the amount of raw cotton, tobacco, soybeans, wheat, powdered milk, farm machinery, automobiles, earth-moving machinery, computing machines, electrical equipment, and so forth, which we can sell abroad.

4. Moreover, if we impose these tariffs and quotas against foreign textiles by governmental action, we can be quite certain that other countries will retaliate by imposing tariffs and quotas against our producers. It is naive to assume that other countries will be passive in the face of our action. They will inevitably retaliate both to protect the amount of foreign exchange which they hold and from a natural, human desire not to passively accept such action by us. Not only will

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the amount of international trade decrease but the amount of international animosity will greatly increase.

5. Twenty-six years ago, at about this time, the American Congress passed the Smoot-Hawley-Grundy Tariff Act, which greatly raised our tariffs against foreign goods. The bill then went to President Hoover's desk where it awaited his signature or veto. As a private citizen, I helped to draft an appeal to the President asking him to veto this bill in which we pointed out that if it went into effect it would inevitably cut off our exports, invite retaliatory action by other countries and intensify the world depression which was then beginning to gather headway. Our appeal was signed by no less than 1,146 economists of the country.

Despite our appeal, President Hoover signed the high-tariff bill and what we had prophesied came true. Our exports were reduced; other countries increased their tariffs; Great Britain abandoned her low-tariff policy to which she had adhered for nearly a century. Imperial preference was established within the British Empire and Commonwealth. The world slipped into protectionism and economic nationalism. We were proved to be good prophets then and this experience should help to deter this country from embarking on a similar policy now.

6. The proposed measure is directed primarily at Japan, since it is the importation of Japanese textiles about which our textile industries chiefly complain. We are trying to keep Japan as an ally and a loyal member of the free world coalition against communism. To do this we are spending a very large sum of money. If we deny to the Japanese the ability to sell textile cloth to us and hence prevent them from acquiring the dollar exchange which will enable them to buy raw cotton, rice, wheat, machinery, and so forth from us, we will have to appropriate still more money to feed the Japanese people if we wish to keep them in an alliance with us. Our slogan will then be "aid not trade." In view of the increasing restiveness of the country about foreign aid, the widespread feeling that the policies of the administration in this field are contradictory, confused and ill-conceived, it is not certain for how long the American people will give their approval for aid in the quantities which will be needed were we to take the action which the proposed Senate resolution would encourage.

7. The imposition of these tariffs and import quotas might well throw Japan into the arms of Red China and lead to the withdrawal of Japan from the democratic bloc and its entry into the ranks either of the Communist satellites or those "neutrals" whose orientation is toward communism rather than toward democracy.

Let us note that the economies of Japan and China are in fact complementary rather than competitive. China is primarily an agricultural country and the provider of raw materials. Japan is a processing and manufacturing country. The natural tendency would be for Chinese raw products, such as cotton and iron ore, to be sent to Japan for fabricating and then for some of the finished goods to be shipped back to China.

If these were ordinary times, this would be a welcome development. But they are not ordinary times and we are in fact engaged in a great struggle with the Communist bloc. Red China is one of the two great powers in that Communist bloc. If we prevent Japan from selling her products here in any appreciable quantity, then Japan will have

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to turn toward China. But Communist China will undoubtedly ask a price for opening its markets to Japanese goods and for shipping its raw products, such as iron ore and cotton, to Japan. That price will, at the very least, be for Japan to quit the Western Alliance and instead to be neutral. I doubt, however, if merely neutrality will satisfy Red China for long. China will instead more and more demand and obtain close economic and political cooperation on the part of Japan, and Japan will more or less rapidly move into the Soviet orbit. This would leave us without a single great power in Asia on our side, and it would be difficult for us to maintain the independence of small peripheral countries, such as South Korea, Formosa, South Indochina, Thailand, and so forth. The tide of communism would be greatly strengthened and the free world weakened.

8. There is one point however upon which a few segments of the textile industry and such other industries as may be adversely affected by imports have a legitimate complaint. This is that they are being sacrificed for the general good. "Why", they ask, "should we be compelled to take losses in order that the consumers and other industries may obtain gains? Since everybody else is working for their self-interest, why should we be expected to forego ours?"

In my judgment the only effective way to meet this complaint is to provide compensation to management and to the workers for the losses which they may suffer because of increased foreign imports. This could take the form of cash payments to management and an extension of unemployment benefits to displaced workers coupled with provision for retraining.

This was advocated by David McDonald as a member of the Randall Commission. It was in my judgment a great mistake for that Commission summarily to reject that proposal. Senators Humphrey, Kennedy, and I, among others, also advocated this plan in the debate last year on the reciprocal trade bill but were not successful in mustering much support for it.

Such a proposal is however fundamentally sound since it is only fair that the losses resulting from a given public policy should be at least partially met out of the net gains of such a program. Unless some such policy is adopted, it will be difficult to carry out a broader trade policy and the retreat from the Cordell Hull program is likely to proceed at an accelerated pace.

9. In short, if we pass this resolution and the executive authorities take the action which is implicitly recommended, I believe we will have opened a Pandora's box of mischief. I can only hope that the United States does not make the same mistake which we made in 1930. These are some of the reason why I feel compelled to oppose the passage of this resolution, and why I hope it will be rejected on the floor of the Senate.

PAUL H. DOUGLAS.

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Calendar No. 2425

84TH CONGRESS, 2d Session | SENATE | REPORT No. 2402

REQUIRING A PERIODIC SURVEY BY THE SECRETARY OF COMMERCE OF NATIONAL SHIPBUILDING CAPABILITY

JULY 2, 1956.—Ordered to be printed

Mr. SMATHERS, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT

[To accompany S. 3705]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (S. 3705), having considered the same, report favorably thereon, with an amendment, and recommend that the bill, as amended, do pass.

Under existing law, the Federal Maritime Board may, if it so desires, periodically inspect both Navy and privately owned shipyards with a view to determining their defense capabilities. The Board may, with the approval of the President, allocate work to shipyards if such surveys indicate the need for such work to strengthen their defense potential. The present law does not require a survey and is merely permissive, not mandatory, as far as allocation is concerned.

PURPOSE OF THE BILL

The amended bill makes it mandatory that a periodic survey of privately owned shipyards be made. The duty is delegated to "the Secretary of Commerce with the advice of and in coordination with the Secretary of the Navy." The bill does not require that a survey be made of Navy shipyards as that would merely be a duplication by the Secretary of Commerce of a function already required by existing Navy policy. The survey would determine whether the capabilities of the shipyards (which includes facilities and skilled personnel and records) are adequate to provide a mobilization base at strategic points in the country for national defense purposes or in case of national emergency. Any inadequacies disclosed by the survey will be corrected by the Secretary of Commerce or the Federal Maritime Board with the approval of the President—

after taking into consideration the benefits accruing from standardized construction, the conditions of unemployment, and the needs and reasonable requirements of all shipyards * * *

by allocation of work to such yard or yards as to be fair and reasonable to all sections of the country.

COMMENT

Maritime history indicates that such surveys are necessary in order to meet the necessary preparedness standards. Poor facilities and a lack of a vital nucleus of skilled shipyard personnel are factors which cannot be corrected overnight in the event of an emergency. Time, an increasingly precious commodity in defense planning, will be all that can make up for any present lack of foresight displayed now. The amended bill assures the Federal Government of a regular flow of shipyard information and the authority to act upon the results of the survey to correct any deficiencies.

The departmental comments follow:

DEPARTMENT OF THE NAVY,
OFFICE OF THE JUDGE ADVOCATE GENERAL,
Washington, D. C., June 15, 1956.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Interstate and Foreign Commerce,
United States Senate, Washington, D. C.

MY DEAR MR. CHAIRMAN: Your request for comment on S. 3705, a bill to require periodic survey by the Chairman of the Federal Maritime Board of national shipbuilding capability, has been assigned to this Department by the Secretary of Defense for the preparation of a report thereon expressing the views of the Department of Defense.

The bill would amend section 502 (f) of the Merchant Marine Act, 1936, as amended, to direct the Chairman of the Federal Maritime Board, with the advice and assistance of the Secretary of the Navy, to survey existing shipyards at least once a year to determine whether their capability and capacity, including facilities and skilled personnel, provide an adequate mobilization base at strategic points for national defense or emergency purposes.

It is believed that the authority to make such surveys, as necessary, is implied in the present wording of section 502 (f). However, there would be no objection to providing specific authority as proposed, but certain technical revisions should be made to the bill as indicated below.

The Department of the Navy has an important mobilization responsibility in helping to maintain the skills and facilities of private yards for building combatant ships. The Bureau of Ships has conducted numerous shipyard surveys and maintains a current record, for procurement purposes and mobilization planning, of the potential and capacity of shipyards and boatyards throughout the country. These mobilization planning functions are carried on by the Chief of the Bureau of Ships, as Coordinator of Shipbuilding, Conversion and Repair for the Department of Defense. By virtue of a recently executed agreement between the Department of Defense and the Department of Commerce, the Chief of this Bureau also acts as Coordinator for Ship Repair and Conversion for both Departments.

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Many of the private yards included in the Navy's mobilization planning are, of course, qualified for building merchant types, as well as combatant ships. However, of the country's presently operative shipyards, only four are allocated, under industrial mobilization plans, exclusively for merchant ship construction. Although the Navy recognizes that certain mobilization planning functions are conferred by statute upon the Maritime Administration, it is apparent that the Navy today, in planning for combatant ship construction, has assumed primary mobilization responsibility for a major part of the private shipbuilding and repair industry.

Experience has demonstrated that shipyard surveys conducted each year, as would be authorized under the proposed amendment, are not justified by the small number and extent of changes in the industry's potential which take place during the course of a single year. The records of the Navy Bureau of Ships are kept current on a three-year basis.

In order to prevent duplicate surveys, to recognize the respective mobilization assignments of both the Maritime Administration and the Navy, and to eliminate the "navy yard" provision of existing law which is not applicable in the light of the current division of mobilization planning functions, it is suggested that the bill be redrafted as indicated below:

That section 502(f) of the Merchant Marine Act, 1936, as amended, is hereby amended to read as follows:

"(f) The Secretary of Commerce, with the advice of and in coordination with the Secretary of the Navy, shall periodically, as required for purposes of this Act, survey the existing shipyards engaged in merchant ship construction, or review available data on such shipyards if deemed adequate, to determine whether their capabilities for merchant ship construction, including facilities and skilled personnel, provide an adequate mobilization base at strategic points for purposes of national defense and national emergency. The Secretary of Commerce, in connection with ship construction, reconstruction, reconditioning, or remodeling under title VII and section 509, and the Federal Maritime Board, in connection with ship construction, reconstruction, or reconditioning under title V (except sec. 509), upon a basis of a finding that the award of the proposed construction, reconstruction, reconditioning, or remodeling work will remedy an existing inadequacy in such mobilization base as to the capabilities and capacities of a shipyard or shipyards at a strategic point, and after taking into consideration the benefits accruing from standardized construction, the conditions of unemployment, and the needs and reasonable requirements of all shipyards, may, with the approval of the President, allocate such construction, reconstruction, reconditioning, or remodeling to such yard or yards in such manner as it may be determined to be fair, just, and reasonable to all sections of the country, subject to the provisions of this subsection."

This Department, as a result of conferences with representatives of the Department of Commerce, has agreed to furnish to the Secretary of Commerce, data with respect to naval shipyards engaged in merchant ship construction, if any, under section 502 (e) of the Merchant Marine Act, 1936, as amended.

Subject to the foregoing comments, the Department of the Navy, on behalf of the Department of Defense, interposes no objection to enactment of S. 3705.

This report has been coordinated within the Department of Defense in accordance with procedures prescribed by the Secretary of Defense.

The Bureau of the Budget has advised that there is no objection to the submission of this report to the Congress.

For the Secretary of the Navy.

Sincerely yours,

N. J. FRANK, Jr.,
Captain, U. S. Navy,
Acting Director, Office of Legislative Liaison.

THE UNDER SECRETARY OF COMMERCE
FOR TRANSPORTATION,
Washington, April 5, 1956.

Hon. WILLIAM S. MAILLIARD,
House of Representatives,
Washington 25, D. C.

DEAR MR. MAILLIARD: By your letter of March 13, 1956, you requested my opinion and suggestions on a draft bill to require periodic survey by the Chairman of the Federal Maritime Board of national shipbuilding capability. The draft would amend section 502 (f) of the Merchant Marine Act, 1936, as amended, by adding at the beginning thereof a sentence as follows: "The Chairman of the Federal Maritime Board, with the advice and assistance of the Secretary of the Navy, shall, not less often than once a year, survey existing shipyards to determine whether their capability and capacity, including facilities and skilled personnel, provide an adequate mobilization base at strategic points for national defense or emergency purposes."

Assuming that the amendment is designed to make the survey of shipyards serve as the basis for allocating Government subsidies or controlled merchant ship construction, the language introduces a new factor into section 502 (f) findings. Section 502 (f) requires, as a preliminary to any allocation under it, a finding that "existing shipyards, including Navy yards, do not provide adequate facilities to meet necessary requirements for purposes of national defense and national emergency, with special regard to providing facilities for the national defense at strategic points." The proposed amendment brings in the concepts of "capability and capacity" and lieu of "facilities," but including "facilities and skilled personnel," and the concept of "adequate mobilization base." Thus, it appears that the determinations resulting from the surveys would not be coordinate with the findings required under the existing language of section 502 (f) and hence the survey would not be a proper basis for invoking the existing provisions of section 502 (f).

In accordance with Reorganization Plan No. 21 of 1950, it appears that the making of the survey could well be placed in the Secretary of Commerce (whose authority will be administered by the Maritime Administrator) rather than in the Chairman of the Federal Maritime Board, so that his determinations as to capability and capacity of existing shipyards would be available for use by the Board and the Maritime Administration.

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In order to effect the change you have in mind, it would appear that the first sentence of paragraph (f) of section 502, as amended, should read as follows:

"(f) The Secretary of Commerce, with the advice and assistance of the Secretary of the Navy, shall not less often than once a year, survey the existing shipyards, including Navy Yards, to determine whether their capabilities and capacities, including facilities and skilled personnel, provide an adequate mobilization base at strategic points for purposes of national defense and national emergency. The Secretary of Commerce, or the Federal Maritime Board, in connection with their ship construction or ship reconstruction or reconditioning, upon a basis of a finding that the award of the proposed construction, reconstruction or reconditioning work will remedy an existing inadequacy in such mobilization base as to the capabilities and capacities of a shipyard or shipyards at a strategic point, and after taking into consideration the benefits accruing from standardized construction, the conditions of unemployment, and the needs and reasonable requirements of all shipyards, may, with the approval of the President, allocate construction work under this title and under title VII to such yard or yards in such manner as it may determine to be fair, just, and reasonable to all sections of the country, subject to the provisions of this subsection."

In making the above suggestions as to amendatory language, you appreciate, I am not now in any way indicating what the formal views of the Department of Commerce would be upon a proposed bill incorporating the suggested language.

Sincerely yours,

LOUIS S. ROTHSCHILD.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italics, matter proposed to be omitted in brackets, existing law in which no change is proposed is shown in roman):

UNITED STATES CODE, TITLE 46, SECTION 1152

(f) [If at any time the Commission shall find that the existing shipyards, including the Navy yards, do not provide adequate facilities to meet necessary requirements for purposes of national defense and national emergency, with special regard to providing facilities for the national defense at strategic points, the Commission, after taking into consideration the benefits accruing from standardized construction, the conditions of unemployment, and the needs and reasonable requirements of all shipyards, may, with the approval of the President, allocate construction work under this title and under title VII to such yards in such manner as it may determine to be fair, just and reasonable to all sections of the country, subject to the provisions of this subsection.] *The Secretary of Commerce, with the advice of and in coordination with the Secretary of the Navy, shall periodically as required for purposes of this Act, survey the existing privately owned shipyards engaged in merchant ship construction or*

review available data on such shipyards if deemed adequate, to determine whether their capabilities for merchant ship construction, including facilities and skilled personnel, provide an adequate mobilization base at strategic points for purposes of national defense and national emergency. The Secretary of Commerce, in connection with ship construction, reconstruction, reconditioning, or remodeling under title VII and section 509, and the Federal Maritime Board, in connection with ship construction, reconstruction, or reconditioning under title V (except section 509), upon a basis of a finding that the award of the proposed construction, reconstruction, reconditioning, or remodeling work will remedy an existing inadequacy in such mobilization base as to the capabilities and capacities of a shipyard or shipyards at a strategic point, and after taking into consideration the benefits accruing from standardized construction, the conditions of unemployment, and the needs and reasonable requirements of all shipyards, may, with the approval of the President, allocate such construction, reconstruction, reconditioning, or remodeling to such yard or yards in such a manner as it may be determined to be fair, just, and reasonable to all sections of the country, subject to the provisions of this subsection."

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